ENVIRONMENTAL LAW & POLICY CENTER
Protecting the Midwest's Environment and Natural Heritage

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Public Service Commission of Wisconsin
P.O. Box 7854
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Submitted Electronically

RE: **Comments Regarding Docket: 5-FE-100: Quadrennial Planning Process II**

Dear Commissioners and Ms. Sheil:

The Environmental Law & Policy Center ("ELPC") appreciates the opportunity to respond to the Public Service Commission of Wisconsin's ("PSCW") Request for Comments on these important questions that will guide the Focus on Energy Program in the 2015-2018 period. Wisconsin's Focus on Energy program can regain its leadership for renewable energy program development success with improved policies as a result of this quadrennial review.

The PSCW issued an order on September 26, 2013 under Docket 5-GF-191, establishing a quota rule and increasing the complexity and uncertainty of the treatment of renewable energies under the Focus on Energy program. With the resulting suspension of wind and solar funding, the new quota system falls short of meeting statutory goals. ELPC encourages the PSCW to correct the course for Wisconsin's Focus on Energy renewable energy programs. Our comments are limited to the questions posed under topic five, renewable energy.

I. Question a: How should renewable resource program cost effectiveness be determined?

The cost-effectiveness measure should be balanced with other criteria in line with the program's authorizing statute. Cost-effectiveness should be de-emphasized from its pre-eminence in current policy, providing for a clear, transparent and simplified program that does not encumber the development of renewable energy.

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The quota system created in the September 26, 2013 order has over-emphasized the measure of "cost effectiveness" in ways harmful to legislative intent for the program as described in both the authorizing language of Wis. Stat. § 196.374 and the state energy priority policies established in described in Wis. Stat. §1.12 and governing the Focus program. The September 26, 2013 order replaced the state energy priority policies with the cost-effectiveness test by establishing a quota system wherein 75% of available renewable funds are directed to Group 1 technologies (biomass, biogas, and geothermal) and only 25% of funds are directed to Group 2 technologies (wind, solar thermal, and photovoltaic). The order artificially restrains funding of Group 2 technologies to one-third of disbursements for unrelated Group 1 technologies. This restraint occurs even when Group 2 technologies are "cost-effective and technically feasible," as specified Wis. Stat. § 1.12(4).[1]

If the Wisconsin Legislature wished to replace the priority list with the PSCW's calculations of benefit-cost ratio, the statute would simply state as much. Instead, the statute prohibits technologies that are not cost-effective, rather than establishing a strict cost-effective priority system. Even when Group 2 technologies are feasible and cost-effective PSCW policy reverses the statutory priorities. The strict quota policy also leads to program complexity, uncertainty and disruptions. ELPC supports letting the market decide from among renewable energy technologies given fair access to incentives.

The Wisconsin Legislature defines a renewable resource program as a program that should encourage "the development or use of customer applications of renewable resources," Wis. Stat.§ 196.374(1)(k). The statute also requires that reports from the PSCW to the Legislature should describe "effectiveness," as measured by "increasing the use of renewable resources," Wis. Stat. § 196.374(3)(e)(2). A "cost-effectiveness" test relevant to renewable energy does not appear in section 196.374, the authorizing language for the Focus on Energy program. The only mention of "cost effective" in the section relates to the division of energy efficiency funding between local units of government and agricultural producers versus other non-residential customers.

The manner in which the PSCW quota system falls short of the Legislature's intent to increase "the use of renewable resources" may be illustrated by considering two scenarios: the scenario using the quota system and a quota-free scenario. Under both scenarios the amount of Group 1

[1] Wis. Stat. § 1.12(4) states:

> **(4)** Priorities. In meeting energy demands, the policy of the state is that, to the extent cost-effective and technically feasible, options be considered based on the following priorities, in the order listed:
>
> **(a)** Energy conservation and efficiency.
>
> **(b)** Noncombustible renewable energy resources.
>
> **(c)** Combustible renewable energy resources.
>
> **(d)** Nonrenewable combustible energy resources, in the order listed:
>
> **1.** Natural gas.
>
> **2.** Oil or coal with a sulphur content of less than 1%.
>
> **3.** All other carbon-based fuels.

technology deployment would be the same as neither scenario limits that group. However, under the quota scenario, deployment of Group 2 technologies are drastically limited by being chained to disbursements to Group 1 technologies, as experience has shown. Therefore, the quota scenario, which is current PSCW policy, results in overall program under-performance per statutory measures of effectiveness. Recent experience with the program suspension confirms this result.

This conceptual exercise illustrates the pitfalls of over-reliance on only one performance measure, cost-effectiveness, without consideration of other criteria, such as total number of projects installed. To illustrate with an extreme example, the Focus on Energy program could score very high on cost effectiveness criteria by making only a single award for a renewable energy project with a very high benefit-cost ratio and then declare success – although the program would not be a success because of inadequate program reach.

In addition, the September 26, 2013 order ties the quota to the actual disbursement of funds, although Group 1 projects inherently have longer development times and higher attrition rates. ELPC has observed the same dynamic across technologies under a similar program, the federal Rural Energy for America Program, managed by the U.S. Department of Agriculture. Group 2 industries cannot control the factors that cause biogas and biomass projects to have long and uncertain lead times and cause delays in paying out incentives. Solar and wind energy projects should not be penalized for problems of other sectors that are beyond their control.

The contrast between statutory requirements and the quota policy is likewise clear when considering the requirement clearly stated in authorizing legislation at Wis. Stat. § 196.374(3)(a) "to maximize and document the air quality improvement benefits that can be realized from energy efficiency and renewable resource programs." By severely restricting noncombustible renewable energy in favor of combustible renewable energy, the PSCW policy fails to maximize air quality improvement benefits. Discussion of this statutory imperative is entirely absent from orders on this policy.

II. Question b: How should the goals and funding levels for renewable resource programs be determined?

ELPC supports program goals that balance cost-effectiveness with other policy goals as stated in state law, increasing the use of renewable resources, a maximal increase in air quality benefits and minimizing administrative costs (as a share of total costs). If there are concerns regarding the lack of, or slow, development of Group 1 projects, the PSCW should add or enhance programs tailored to unique resource development challenges, such as feasibility studies for digester development or site assessment tools for wind and solar.

We also encourage the PSCW to substantially increase funding levels for renewable energy, as the economic case for strong incentives persists. Energy markets remain distorted due to persistent institutional opposition to distributed generation, current and historic subsidies to fossil

fuels, the market power and political power of entrenched fossil fuels interests and the market failure reflected by externalities of fossil fuel use.

Increased funding is needed to even partially address market failure in several forms. Externalities describe market failure including pollution, itself a form of subsidy as it imposes costs on others while relieving the pollution producer of the costs of providing a clean energy product. Pollution taxes our public health and increases health costs. The fossil energy product is a fundamentally different and less socially desirable than renewable energy, yet fossil energy remains subsidized in many ways.

Greater renewable energy production also helps to stabilize the costs of electric power and is, increasingly, a least cost option in a strict financial sense. Fuel-free renewable energy delivers certainty for future energy costs and protection from escalating costs inherent and experienced from fossil energy.

Renewable energy provides economic development benefits in Wisconsin. Wisconsin has no indigenous fossil fuel resources and renewable energy is our only domestic energy resource. Imported fossil energy drains money from the state economy while domestic renewable energy development delivers economic development benefits by retaining energy expenditures in our economy. Whether from Wisconsin dairy cows, biomass, sun or wind, Wisconsin renewable energy benefits our economy and Focus grows the Wisconsin industry.

Recent economic events demonstrate that a low carbon energy economy aids economic development. Corporations are increasingly making facility siting decisions to tap low carbon power, such as Google's and Facebook's recent decisions to site server farms in Iowa to access wind power. These firms are driven by market demand to seek low carbon energy. Likewise, US dairy industry trade groups signed agreements with the US Department of Agriculture to cut their greenhouse gas pollution by 25% by 2020 – again in response to market demand. Increasingly, markets and businesses demand low carbon power mix, making a high carbon electrical supply a liability to economic development. More renewable energy developed faster will decarbonize Wisconsin's energy and aid economic development.

Program goals should include the increasing development of all renewable energy technologies, and attendant business opportunities. Likewise all customer classes, including residential, should benefit from renewable energy programming. Solar hot water should also be actively included and provides benefits in reducing propane demand, places downward pressure on volatile propane prices.

III. Question c. Are there criteria that should applied to renewable resource funding, either as a whole (such as maintaining a minimum portfolio level of cost effectiveness) or by measure or measure group (such as the Group 1 and Group 2 funding currently in place)?

ELPC urges the PSCW to employ additional criteria that are found in the authorizing legislation including:

- Increasing the use of renewable resources as described at Wis. Stat. § 196.374(3)(e)(2) should be evaluated in terms of year-to-year increases in installed project capacity that would reflect market transformation.
- Air quality benefits as described in Wis. Stat. § 196.374(3)(a) can be measured in terms of total projected emissions compared to baseline, "business as usual" practices.
- Supporting diverse sources of renewable energy addressed in the legislation at Wis. Stat. § 196.374(1)(j), such as solar, solar hot water, wind, water, biomass, and geothermal.

The PSCW should recalculate the benefit-cost ratios used to evaluate renewable energy technologies using up-to-date and accurate cost and benefit data. The data and calculations used should be openly shared with the public and the industry to allow for feedback and revision based upon that feedback. The analysis should fully account for all costs and benefits including air and water pollution, job creation, technology diversity, and the greatest number of sectors served.

Sincerely,

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